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C_8.1804 (3) SINGLE BENCH

BEFORE THE HON'BLE HIGH COURT OF CHHATISGARH AT BILASPUR

WP. No. 5206/05

PETITIONER: SURAJ SINGH MANDAVI
S/O BHAGWAN SINGH
AGED ABOUT 42 YEARS
R/O DHONDI LOHARA (P.O. & TAH)
DIST: DURG,
C.G. STATE.

VERSUS

RESPONDENTS: 1) THE STATE OF C.G.
THRU: SECRETARY,
EDUCATION DEPTT.,
GOVT. O F C.G.
DKS BHAVAN,
RAIPUR.

2) THE DIST COLLECTOR
DURG,
C.G. STATE.

3). DISTRICT EDUCATION OFFICER,
DURG DIST
C.G. STATE.

C.C. No. 4776/05
Presented by: UP Kashyap
dated 13/9/05

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT (S) / ORDER (S) / DIRECTION (S), ETC.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P. No. 5206 ..... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

27.10.2005

Shri U.R. Koshaley, counsel for the petitioner.

Shri Vivek Sharma, P.L. appears for the State on advance copy.

I.A.No.9070/2005

This is an application for urgent hearing. The matter is taken up for hearing. This interim application stands disposed of.

W.P.No.5206/2005

Heard.

The petitioner, who is presently posted as an Assistant Grade-III in Block Education Office, Dhondi Lohara, Distt. Durg and has been transferred to Arkar on administrative grounds, has challenged the validity of his transfer order dated 31.8.2005.

Learned counsel submits that the transfer has been effected in the mid session and it is going to affect the studies of his child who is studying in a local institution. Except this ground, learned counsel has not pressed for any other ground while arguing this petition.

The law in relation to interference by the Courts in the matter of transfer is now well settled. The Apex Court while dealing with the matter of *Kendrikya Vidya Sangathan -Vs- Damodar Prasad Pandey, 2004 AIR SCW 5563* held that the transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

be clearly arbitrary or vitiated by *mala-fide* or infraction of any prescribed norms of principles governing the transfer. (***Please see Ambani Kanta Ray -Vs- State of Orissa - 1995 (Suppl.) 4 SCC 169***). The Apex Court further held that unless the order of transfer is vitiated by mala fide or is made in violation of operative guidelines, the Court cannot interfere with it. ***(See Union of India -Vs- S.L. Abbas AIR 1993 SC 2444)***. Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In ***Union of India & others -Vs- Janardan Debanath & another (2004) 4 SCC 245***, it was observed by the Supreme Court as follows:

> "No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala-fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the appellate authorities substituting their own decision for that of the employee/management, as against such order passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in **National Hydroelectric Power Corpn. Ltd. -Vs- Shri Bhagwan (2001) 8 SCC 574.**

Since the counsel for the petitioner could not point out either any ground of malafide or the ground of being violation of any stutory rules framed for governing the transfer, I am not inclined to interfere in the aforesaid impugned transfer order.

There is no merit in the writ petition and the same is dismissed.

So far as the points raised by the petitioner regarding his personal difficulties are concerned, in the opinion of this Court it is for the employer to look into the personal difficulties of the employee. The employer is always obliged to look into the personal grievances of his employee with a view to keep him/her in such a condition that he/she may render an excellent service to the employer.

Hence the petitioner shall be at liberty to file a detailed representation raising all his grievances before the competent authority and if such a representation is filed, the competent authority shall dispose of the same in accordance with law.

Sd/-
Sunil Kumar Sinha
Judge